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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,230	03/29/2001	Satoru Tange	SHC0121	7158

7590

06/03/2003

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EXAMINER

GUARRIELLO, JOHN J

ART UNIT

PAPER NUMBER

1771

10

DATE MAILED: 06/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/821230

Applicant(s)

Tange et al.

Examiner

John Guarnie/10

Group Art Unit

177/

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on 2/24/2003, 3/17/2003, 3/26/2003.
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1, 2 is/are pending in the application.
- ☐ Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1, 2 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 25-3
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other \_\_\_\_\_

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### **DETAILED ACTION**

15. The Examiner acknowledges papers # 7-9, the amendment of 2/25/2003, revocation paper of 3/17/2003, and revocation granted of 3/26/2003. The Examiner acknowledges IDS of 3/29/2001, paper # 3, and the cancellation of the non-elected claims 3-8.

16. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

### ***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over WO 94/14607 in view of EP 1066 957.

Rejection is maintained substantially as in paper # 6 of 11/22/2002.

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Applicant's arguments regarding In re Boesch have been considered and upon reconsideration agrees with applicant. However, it is the Examiner's position that it has been held that where the general conditions of the claims are disclosed in the prior art, which is the situation with regard to the references of record, discovering the optimum or workable ranges if the ratio of tensile strengths in the first direction to the second direction regarding the claimed invention, involves only routine skill in the art, In re Aller 105 USPQ 233.

WO'607 describes a multi-layer surface panel which corresponds to the claimed composite sheet, (see abstract). WO'607 describes at least one elastic layer of a uniform film or foil which corresponds to the claimed elastically stretchable layer with upper and lower surfaces, (see abstract). WO'607 describes at least one inelastic fiber or filament layer joined at spaced points which corresponds to the claimed invention which are joined or bonded together intermittently, (see abstract). Regarding the orthogonal bonding direction, EP'957 describes the upper layer and lower layer of a composite

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sheet may be bonded orthogonally, (page 2, lines 54-58; page 3, lines 1-3, lines 40-41), even though non-preferred. See *In re Hans Theodor Boe* 53 CCPA 1079, 355 f.2d 961; 148 USPQ 507, obviousness may exist although teachings relied upon may be disclosed in art as non-preferred or unsatisfactory for the intended purpose. All the disclosures in a reference must be evaluated for what they fairly teach one of ordinary skill in the art. WO'607 differs from the claimed invention because it is silent about the tensile strength ratio of the elastic layer to the inelastic layer.

It would have been obvious to one of ordinary skill in this art to optimize the ratio of the tensile strengths in the first direction to the second direction motivated with the expectation that this would improve softness since tensile strength is the ability of a fiber, yarn or fabric to resist breaking under strain, it has been held that discovering optimum value for ranges involves only routine skill in this art, *In re Aller*, 105 USPQ 233.

19. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See Goda 6,378,134 the whole document.

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20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Guarriello whose telephone number is 703-308-3209. The examiner can normally be reached on Monday to Friday from 8 am to 4 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris, can be reached on (703) 308-2414. The fax phone number for the organization where this application or proceeding is assigned is 703-305-5408.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



John J. Guarriello:gj

Patent Examiner

May 28, 2003

May 30, 2003



TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700